

ANKCORN LAW FIRM
A Professional Corporation

September 2, 2016

Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Petition for Exemption, Mortgage Bankers Association
CG Docket No. 02-278

Commissioners:

The latest attempt by industry to invade individual privacy is the Mortgage Bankers Association's petition dated June 16, 2016, seeking a sweeping exemption from the Telephone Consumer Protection Act. The MBA, on behalf of its members, wants the Commission to permit unlimited calling using whatever technology the bankers can think up for "mortgage servicing calls" that they say are important to and benefit borrowers.

But the truth is these are debt collection calls, not kind-and-gentle information calls. Not once in my eight years of handling almost exclusively TCPA-related cases has a potential client come to me complaining about an information call.

I have, however, talked to dozens and dozens of out of work, struggling homeowners who are bombarded with daily collection calls from mortgage servicers. The servicers employ pre-recorded messages and automated calling systems that don't have any capacity for the recipient of the calls to say "stop calling me."

Some examples —

Sal, a resident of California, has a loan serviced by Ocwen Loan Servicing, LLC. He pays his mortgage every month in full, but if he's even a day past the due date (still well before default and still before a late charge kicks in), he gets three or four automated calls from Ocwen each and every day. One time, as he got off shift from his work as a cab driver, he made a payment online at 4 am on the first of the month, when his payment is due. He went back home to sleep but at 8 am Ocwen started calling him, waking him from sleep and demanding

payment. He explained to the staffer that he'd already paid and the man said that while he saw that in the payment database, the calling program was programmed to call anyway. And this was the first of four calls that day. He'd previously told Ocwen to stop calling, took his cell phone number out of his online account profile, and even written them a letter asking for them to communicate by letter if they needed to get ahold of him, but Ocwen keeps calling. Ocwen also calls him on his cell phone for his brother's loan and his parents' loan — both serviced by Ocwen — and ignores his repeated requests to stop. In total, Sal has in excess of 2,000 calls to his cell phone in the last few years. He can't change his cell phone number because it's his primary point of contact with customers.

Dennis, a resident of Florida, filed for Chapter 7 bankruptcy in 2009 and received a discharge of his debts in full, including his personal liability for a mortgage on a house he lost to foreclosure some months before. But years later, Ocwen acquired the servicing rights to the loan and has called him over and over to demand payment, as recently as the Spring of 2016. In total, his cell phone was called more than 1,200 times by Ocwen, all in violation of federal court order, the TCPA, and Florida law.

Sandy, also a Californian, fell behind on her mortgage when her husband was involuntarily furloughed as a state employee in 2010. Bank of America was her loan servicer and called her hundreds of times to demand payment. She would call them back and spend hours on hold, talking to various departments, getting transferred from place to place, calling back and so on. And when she finally explained to someone that they'd pay something but maybe not enough and maybe not exactly on time, it didn't work to stop the calls. Literally the minute after she hung up from a sympathetic supervisor who agreed to hold off on collection and foreclosure for a few days or a week, she'd get robocalls again from Bank of America. Sandy's the mom of a little boy with severe autism and she also suffers from a congenital heart condition. More than once after receiving a late evening call from the Bank of America robot, she would have a severe anxiety attack prompting her husband to call 911.

Darryl, a resident of Texas, had a mortgage on a house that was taken away in foreclosure. Under Texas law, he's not liable for the deficiency balance, but the remnants of the loan were sold to a hedge fund somewhere who hired Real Time Resolutions to "service" the loan. Which really means collect. Illegally. But they call anyway, hundreds of times in the past few years. He's explained over and over that he's not liable and has asked them to stop calling, but the calls continue.

One of the maddening things for many people I talk to is the fact that they have no control over who the lender selects as a servicer. They can't use the free market to do business with companies that respect them and honor their values.

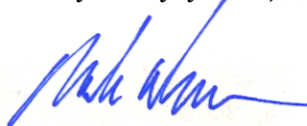
Instead, borrowers are stuck with whomever the lender (or the investment trust pool or hedge fund who now owns the debt) chooses to handle monthly payments. Lenders don't seem to care at all about customer service, or so it seems from their own economic choices. For the vast majority of homeowners who pay early and in full, this isn't all that meaningful — but for the minority who find themselves in tough economic circumstances, finding a person to explain the situation to, even to just say “stop calling,” is nearly impossible.

These are the most vulnerable borrowers. And they're the ones who need the TCPA the most. It's practically the only thing that extends any kind of dignity in the face of constant harassment and intrusion.

The Commission has proved itself over the years to be sensitive to the needs of consumers and has enacted regulations that protect from erosion one of the only tools regular folks have to push back against the true “scourge of modern life,” as the late Sen. Ernest Hollings put it in introducing the TCPA on the floor of the Senate.

Please don't let the MBA get away with their whitewash. Deny their petition outright and make it clear that the FCC will once again stand up for consumers.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Mark Ankorn', with a stylized flourish extending to the right.

Mark Ankorn